[Cite as *State v. Lovsey*, 2004-Ohio-2112.]

COURT OF APPEALS
FAIRFIELD COUNTY, OHIO
FIFTH APPELLATE DISTRICT

STATE OF OHIO,	:	JUDGES:
	:	Hon. William B. Hoffman, P.J.
Plaintiff-Appellee	:	Hon. John W. Wise, J.
	:	Hon. John F. Boggins, J.
-vs-	:	
	:	Case No. 03-CA-1
ANTHONY L. LOVSEY,	:	
	:	
Defendant-Appellant	:	O P I N I O N

CHARACTER OF PROCEEDING:	Criminal Appeal from Fairfield County Court of Common Pleas, Case No. 2002CR144
JUDGMENT:	AFFIRMED
DATE OF JUDGMENT ENTRY:	APRIL 23, 2004

APPEARANCES:

For Plaintiff-Appellee DAVID L. LANDEFELD Fairfield Co. Prosecuting Attorney GREGG MARX (0008068) Assistant Prosecuting Attorney 201 South Broad Street Lancaster, OH 43130 740-687-7168	For Defendant-Appellant DAVID H. THOMAS (0071492) STEPHEN E. PALMER (0065265) 511 South High Street Columbus, OH 43215 614-228-4141

Boggins, J.

{¶1} This is an appeal from the jury verdict of complicity to commit aggravated murder and tampering with evidence.

STATEMENT OF THE FACTS

{¶2} The facts indicate that on March 27, 2002, Shannon McGath, a juvenile, had attended a party at which she consumed an excessive amount of alcohol and used marijuana. The deceased victim, Dawit Mamo, was present at such party. Due to her consumption, Ms. McGath slept over at Mamo's residence rather than returning home after the party. In the morning, she awoke to find her panties missing and believed that Mamo had had sex with her while she slept. A few days later, she told her brother, Sean McGath, also a juvenile, what she thought had occurred.

{¶3} Appellant, the boyfriend of Ms. McGath, learned of this a few days later.

{¶4} Appellant and Sean McGath argued with the victim at another party. They, Appellant and Sean, then returned home (Appellant was residing at the McGath residence). The two went back to the party and confronted Mamo in the parking lot at the apartment of the party's location.

{¶5} At such time, the victim was stabbed in the abdomen and heart, the latter being ultimately fatal.

{¶6} Witnesses observed only the positioning of Appellant and Sean McGath, but not the actual stabbing.

{¶7} Both Appellant and Sean McGath were arrested. The latter provided a statement naming Appellant as the perpetrator and informed the police as to the creek where Appellant's knife had been thrown. It still contained Mamo's blood.

{¶8} Sean McGath agreed to testify in accordance with his statements concerning the events and guilt of Appellant.

{¶9} In exchange, all charges were dismissed against Sean McGath.

{¶10} Appellant was indicted on one count of aggravated murder, two counts or murder and one count of tampering with evidence.

{¶11} Certain evidence of a threat, allegedly made by Sean McGath to a witness, was excluded at one point in the trial as inappropriate in the manner attempted.

{¶12} Some testimony by medical experts for the State and Appellant indicated that the fatal wound was probably caused by a single edge blade.

{¶13} Sean McGath often carried a butterfly knife, while that of Appellant was a single edge decorative knife.

{¶14} At the conclusion of the presentation of evidence, the State requested a charge on complicity to each of the murder charges. Appellant objected, but such charge was given.

{¶15} The jury convicted Appellant of one count of complicity to commit aggravated murder, two counts of complicity to commit murder, one count of felonious assault and one count of tampering with evidence, after which Appellant was sentenced.

{¶16} A timely appeal followed with eight Assignment of Error as follow:

ASSIGNMENTS OF ERROR

{¶17} "ASSIGNMENT OF ERROR NO. 1: THE TRIAL COURT ERRED IN INSTRUCTING THE JURY ON COMPLICITY LIABILITY, THEREBY DEPRIVING APPELLANT OF HIS RIGHT TO DUE PROCESS OF LAW AS GUARANTEED BY THE FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION AND COMPARABLE PROVISIONS OF THE OHIO CONSTITUTION.

{¶18} "ASSIGNMENT OF ERROR NO. 2: THE TRIAL COURT ERRED IN PROHIBITING APPELLANT FROM INTRODUCING EVIDENCE THAT A GOVERNMENT WITNESS THREATENED AN EYEWITNESS TO THE MURDER, THEREBY DEPRIVING APPELLANT OF HIS RIGHT OF CONFRONTATION AND RIGHT TO DUE PROCESS OF LAW AS GUARANTEED BY THE SIXTH AND FOURTEENTH AMENDMENTS TO THE UNITED STATES CONSTITUTION AND COMPARABLE PROVISIONS OF THE OHIO CONSTITUTION.

{¶19} "ASSIGNMENT OF ERROR NO. 3: THE TRIAL COURT ERRED IN REFUSING TO INSTRUCT THE JURY THAT A GOVERNMENT WITNESS'S THREATS TO AN EYEWITNESS COULD REFLECT CONSCIOUSNESS OF GUILT, THEREBY DEPRIVING APPELLANT OF HIS RIGHT TO DUE PROCESS OF LAW AS GUARANTEED BY THE FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION AND COMPARABLE PROVISIONS OF THE OHIO CONSTITUTION.

{¶20} "ASSIGNMENT OF ERROR NO 4: THE TRIAL ERRED IN OVERRULING APPELLANT'S MOTION FOR A MISTRIAL WHERE EXTRA SECURITY MEASURES WERE VISIBLE TO THE JURY AND IMPAIRED JUROR IMPARTIALITY, THEREBY DEPRIVING APPELLANT OF HIS RIGHT TO A FAIR TRIAL AND DUE PROCESS OF LAW AS GUARANTEED BY THE SIXTH AND FOURTEENTH AMENDMENTS TO THE UNITED STATES CONSTITUTION AND COMPARABLE PROVISIONS OF THE OHIO CONSTITUTION.

{¶21} "ASSIGNMENT OF ERROR NO. 5: THE TRIAL COURT ERRED IN ENTERING A JUDGMENT OF CONVICTION AND THEREBY DEPRIVED APPELLANT OF DUE PROCESS OF LAW AS GUARANTEED BY THE FOURTEENTH

AMENDMENT TO THE UNITED STATES CONSTITUTION AND COMPARABLE PROVISIONS OF THE OHIO CONSTITUTION, AS THE PROSECUTION FAILED TO OFFER SUFFICIENT EVIDENCE TO PROVE BEYOND A REASONABLE DOUBT EACH AND EVERY ELEMENT OF THE CHARGED OFFENSES.

{¶22} "ASSIGNMENT OF ERROR NO. 6: THE TRIAL COURT ERRED AND THEREBY DEPRIVED APPELLANT OF DUE PROCESS OF LAW AS GUARANTEED BY THE FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION AND COMPARABLE PROVISIONS OF THE OHIO CONSTITUTION BY FINDING APPELLANT GUILTY, AS THE VERDICTS FOR THE CHARGED OFFENSES WERE AGAINST THE MANIFEST WEIGHT OF THE EVIDENCE.

{¶23} "ASSIGNMENT OF ERROR NO. 7: THE TRIAL COURT ERRED IN ADMITTING AN IRRELEVANT AND UNFAIRLY PREJUDICIAL PHOTOGRAPH OF THE DECEDENT, THEREBY DEPRIVING APPELLANT OF HIS RIGHT TO DUE PROCESS OF LAW AS GUARANTEED BY THE FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION AND COMPARABLE PROVISIONS OF THE OHIO CONSTITUTION.

{¶24} "ASSIGNMENT OF ERROR NO. 8: THE TRIAL COURT ERRED IN REPEATEDLY ADMITTING HEARSAY TESTIMONY BY GOVERNMENT WITNESSES, THEREBY DEPRIVING APPELLANT OF HIS RIGHT OF CONFRONTATION AS GUARANTEED BY THE SIXTH AMENDMENT TO THE UNITED STATES CONSTITUTION AND COMPARABLE PROVISIONS OF THE OHIO CONSTITUTION."

ASSIGNMENTS OF ERROR

I

{¶25} The First Assignment of Error asserts that the charge as to complicity over Appellant's objection, contrary to the charges of the indictment, was erroneous and denied Appellant a fair trial. We disagree.

{¶26} R.C. 2923.03(A) and (B) provide:

{¶27} "A) No person, acting with the kind of culpability required for the commission of an offense, shall do any of the following:

{¶28} "(1) Solicit or procure another to commit the offense;

{¶29} "(2) Aid or abet another in committing the offense;

{¶30} "(3) Conspire with another to commit the offense in violation of section 2923.01 of the Revised Code;

{¶31} "(4) Cause an innocent or irresponsible person to commit the offense.

{¶32} "(B) It is no defense to a charge under this section that no person with whom the accused was in complicity has been convicted as a principal offender."

{¶33} The Ohio Supreme Court in *State v. Perryman* (1976), 49 Ohio St.2d 14, stated:

{¶34} "When the evidence adduced at trial could reasonably be found to have proven the defendant guilty as an aider and abettor, a jury instruction by the trial court on that subject is proper."

{¶35} In *Lockett v. Ohio* (1978), 438 U.S. 586, the United States Supreme Court held:

{¶36} "Where Ohio Supreme Court's construction of complicity provision of statute under which defendant was convicted was consistent with both prior Ohio law

and with legislative history of statute, interpretation of provision did not deprive defendant of fair warning of crime with which she was charged. R.C. Ohio §2923.03(A).

{¶37} "Petitioner's contention that the Ohio Supreme Court's interpretation of the complicity provision of the statute under which she was convicted was so unexpected that it deprived her of fair warning of the crime with which she was charged, is without merit. The court's construction was consistent with both prior Ohio law and the statute's legislative history. "P. 2961."

{¶38} "Constitution does not prohibit states from enacting felony-murder statutes or from making aiders and abettors equally responsible, as a matter of law, with principals. (Per Mr. Chief Justice Burger with three Justices concurring and three Justices concurring in the judgment.)"

{¶39} This court determined in *State v. Duering* (1971), 25 Ohio App.2d 103:

{¶40} "Where an indictment fails to indicate that the defendants were aiders and abettors, but such claim is brought out on trial, it is not error for the court to charge the jury on aiding and abetting in the absence of a bill of particulars expressly excluding that claim.

{¶41} "Statute providing that any person who aids, abets, or procures another to commit an offense may be prosecuted and punished as if he were the principal offender means literally what it says."

{¶42} Also, in *State v. Johnson* (2001), 93 Ohio St.3d 240, it is stated:

{¶43} "To support a conviction for complicity by aiding and abetting, the evidence must show that the defendant supported, assisted, encouraged, cooperated with, advised, or incited the principal in the commission of the crime, and that the

defendant shared the criminal intent of the principal; such intent may be inferred from the circumstances surrounding the crime. R.C. §2923.03(A)(2)."

{¶44} *State v. Coleman* (1988), 37 Ohio St.3d 286, provided:

{¶45} "Under R.C. 2923.03, a person may be an accomplice in an offense and prosecuted as the principal offender if, among other things, he aids or abets another in committing the offense while acting with the kind of culpability required for commission of the offense."

{¶46} We must examine the record in this case to determine if sufficient evidence was presented to make Appellant aware that a charge on complicity was warranted even though such was absent from the indictment.

{¶47} Appellant's defense that he was not the perpetrator of the offense of murder was never to the effect that some unknown person committed the act, but that Sean McGath, who was initially also charged, was the guilty party.

{¶48} In this regard, Appellant stressed the fact that both the expert witnesses for the State and Appellant rendered opinions that a single edged knife did not cause the fatal wound, but rather a double edged knife such as the butterfly knife Sean McGath may have possessed made such wound.

{¶49} The evidence before the jury, if believed, additionally provided that Appellant and McGath were the only ones present at the time of the stabbing, that Appellant, a left hander (Tr. 400), had his right hand on the victim's shoulder, that McGath was not in arms length of the victim (Tr. 300), that the victim's blood was on Appellant's knife (stipulation, Tr. 607) and sweatshirt (Tr. 635) and that Appellant wanted to kill the victim (TRr. 627).

{¶50} Also, the assertion as to the State's expert as to a double edged knife causing the fatal wound is not totally accurate.

{¶51} He stated at Tr. 400 that he did not remember saying it was a single edged blade. Also, at Tr. 402, he stated it was more likely a single edged blade was involved. But at Tr. 403-404, he stated with the slit-like wound, he could not tell. And at Tr. 405, he said he would not exclude a dagger type if one side was sharper. At Tr. 406, he stated that the prior surgeon's probing could have changed the wound.

{¶52} Also, the jury had before it that both Appellant and McGath fled the scene. Such may constitute consciousness of guilt as to either or both. *State v. Eaton* (1969), 19 Ohio St.2d 145, *State v. Vance* (April 4,1994), Knox App. 92-CA-33, unreported (5th Dist).

{¶53} Of course a jury has the responsibility to determine the credibility of the witnesses, including experts and may accept all or any part thereof of their testimony. *State v. Jamison* (1990), 40 Ohio St.3d 182.

{¶54} We find that the efforts to indicate the appropriate perpetrator as Sean McGath while the evidence indicated Appellant acted either as principal or as participant was sufficiently created by Appellant's defense to apprise him that the charge of complicity, while not contained in the indictment, was warranted and that no surprise preventing a fair trial or affected Appellant's constitutional rights to such occurred.

{¶55} We therefore reject the First Assignment of Error.

II

{¶56} The Second Assignment of Error questions the court decision as to testimony as to a threat by Sean McGath to a witness.

{¶57} Contrary to such assertion, the court did not prevent such evidence.

{¶58} At Tr. 524-525, it is clear that the court determined that such purported threat could not be introduced through the cross-examination of Sgt. Portier, but that Appellant's counsel not only already indicated it to the jury but could inquire of it when Sean McGath testified. Since Mr. McGath testified, the opportunity to inquire as to such threat was present. Appellant's counsel was therefore not prevented from so inquiring. The Second Assignment of Error is rejected.

III

{¶59} We must reject the Third Assignment of Error due to the fact that even though we agree that threats may indicate consciousness of guilt, Appellant failed to pursue the aspects of the threat when Sean McGath testified even though the Court provided such opportunity. On redirect, after being advised and waiving his constitutional rights as to potential self incrimination, Sean McGath testified (Tr. 692) that he only told Joshua Mitchell that he would beat him up if he didn't tell the truth. Nothing further as to the threat was developed thereafter.

{¶60} A challenge to a single jury instruction may not be reviewed piecemeal or in isolation, but must be reviewed within the context of the entire charge. *State v. Hardy* (1971), 28 Ohio St.2d 89; *State v. Price* (1979), 60 Ohio St.2d 136. Accordingly, the proper standard of review for an appellate court is whether the trial court's refusal to give a party's requested instruction constituted an abuse of discretion under the facts and circumstances of the case. *State v. Wolons* (1989), 44 Ohio St.3d 64. The term "abuse of discretion" connotes more than an error of law or judgment; it implies that the

court's attitude is unreasonable, arbitrary or unconscionable. *Blakemore, v. Blakemore* (19830, 5 Ohio St.3d 217, 219.

{¶61} In Ohio, it is well established the trial court will not instruct the jury where there is no evidence to support an issue. *Riley v. Cincinnati* (1976), 46 Ohio St.2d 287. Here, the evidence was lacking and the ruling proper.

IV

{¶62} The Fourth Assignment of Error is predicated on the possibility of at least one juror having observed Appellant in shackles while being transported between the courtroom and the jail. Appellant moved for a mistrial after presentation of the evidence but did not desire a voir dire of any member of the jury (Tr.796) nor a curative instruction. (Tr. 796).

{¶63} Also, while Appellant's counsel indicated to the court that Appellant's family members were available to testify as to these observations, none were called nor a request that they be called to provide such information. While the court, in denying the motion for mistrial made the assumption that such may have occurred, nothing in the record so indicates. For purposes of this Court's review of the claim, we are limited to the record rather than joining in the assumption but if we also choose to assume, the Ohio Supreme Court, in the capital murder case of *State v. Nields*, 93 Ohio St.3d 6, stated:

{¶64} "Trial court's failure in capital murder case to conduct a hearing or issue curative instruction upon learning that several jurors saw defendant in shackles just before closing arguments in mitigation phase did not deny defendant a fair trial; defendant simply asserted he was prejudiced by that incident without demonstrating

prejudice, and risk of prejudice was slight in any event, considering that jurors' view of defendant in custody was brief, inadvertent and outside the courtroom."

{¶65} We disagree with Appellant's conclusions as to this Assignment of Error as no prejudice has been shown and, with no voir dire of any juror member, the possibility of any prejudicial effect would again be based on an unwarranted conclusion.

{¶66} Appellant's Fourth Assignment of Error is overruled.

V

{¶67} The Fifth Assignment of Error questions the sufficiency of proof to support each required element of the offenses before the jury. We disagree.

{¶68} On review for sufficiency, a reviewing court is to examine the evidence at trial to determine whether such evidence, if believed, would support a conviction. *State v. Jenks* (1991) 61 Ohio St.3d 259. The weight to be given evidence and the determination of credibility of witnesses are issues for the jury, not the reviewing court. *State v. Jamison* (1990), 49 Ohio St.3d 182, *certiorari denied,* 498 U.S. 881.

{¶69} In viewing the evidence most favorably to Appellant as required by *State v. Thompkins* (1997), 78 Ohio St.3d 380, we find that sufficient evidence was presented to the jury for a determination of the guilt of Appellant either as the primary offender or as complicit. Appellant and Sean McGath were angry at Mr. Mamo, they returned to his location, confronted him, his blood was on the Appellant's knife, both fled, the knife was discarded, the victim's blood was on Appellant's clothing, in addition to those matters of evidence heretofore reviewed.

{¶70} We find that sufficient evidence was presented. Appellant's Fifth Assignment of Error is overruled.

VI

{¶71} The Sixth Assignment of Error as to lack of manifest weight also requires this court to consider the evidence previously referenced.

{¶72} On review for manifest weight, a reviewing court is to examine the entire record, weigh the evidence and draw all reasonable inferences, consider the credibility of the witnesses and determine "whether in resolving conflicts in the evidence, the trier of fact clearly lost its way and created such a manifest miscarriage of justice that the judgment must be reversed and a new trial ordered. *State v. Martin* (1983), 20 Ohio App.3d 172. See, also, *State v. Thompkins* (1997), 78 Ohio St.3d 380. The discretionary power to grant a new Ashould be exercised only in the exceptional case in which the evidence weighs heavily against the conviction. *Martin* at 175. Because the trier of fact is in a better position to observe the witnesses= demeanor and weigh their credibility, the weight of the evidence and the credibility of the witnesses are primarily for the trier of fact. *State v. DeHass* (1967), 10 Ohio St.2d 230, syllabus 1.

{¶73} Based upon the facts noted *supra*, and the entire record, we do not find the decision was against the manifest weight of the evidence. The jury was free to accept or reject any or all of the testimony of the witnesses and assess the credibility of those witnesses.

{¶74} The Sixth Assignment of Error is rejected.

VII

{¶75} The Seventh Assignment of Error asserts error as to admission of a photograph of the victim.

{¶76} We consider the admission under an abuse of discretion standard relative to prejudicial affect, if any.

{¶77} As stated heretofore, in order to find an abuse of discretion, we must determine that the trial court=s decision was unreasonable, arbitrary or unconscionable and not merely an error of law or judgment. *Blakemore v. Blakemore* (1983), 5 Ohio St.3d 217. We must look at the totality of the circumstances in the case *sub judice* and determine whether the trial court acted unreasonably, arbitrarily or unconscionably.

{¶78} Often, an objection is made as to repetitive photos or those which portray details of a victim which may be disturbing. Here, however, the autopsy photo of the victim (State's Ex. 4) was exhibited to the jury during trial without objection (Tr. 385-386) and admitted without objection (Tr. 702). This Assignment deals with the photo of Mr. Mamo at age 18 prior to his death. We find that admission of such a photo as State's Exhibit 1 rested in the sound discretion of the court. We find that such photo had sufficient probative and relevant value as to outweigh any danger of material prejudice. Evid. Rules 403, 611(A), *State v. Jackson* (1991), 57 Ohio St.3d 29.

{¶79} The Seventh Assignment is not well taken.

VIII

{¶80} The Eighth Assignment of Error states that admission of hearsay testimony prejudicially affected the outcome of the trial, thereby depriving Appellant of a fair trial.

{¶81} There are seven asserted hearsay admissions referenced by this Assignment. One objection at Tr. 430 was sustained and is therefore disregarded.

{¶82} The remaining will be discussed.

{¶83} The first at Tr. 268 involved asking Justin Springsteen as to an argument which he overheard among the victim, Appellant Sean McGath and Shannon McGath outside Mike Kinser's apartment, preceding the death of Mr. Mamo. He was asked what the argument was about.

{¶84} The objection, as stated, was based on hearsay, while the State chose to identify it as an excited utterance.

{¶85} The court, in its ruling, determined that the response was not as to the truth of the content of the argument and therefore not hearsay.

{¶86} While we have doubts as to the response qualifying as an excited utterance, the exception as to present sense impression or state of mind under Evid. Rule 803(1)(3) would be applicable.

{¶87} In addition, we must view this scenario in the context of events before the jury.

{¶88} The allegations of sexual misconduct of the victim were communicated to Sean McGath and to Appellant by Shannon McGath (Tr. 420-422) and as the basis for the anger at Mr. Mamo (Tr. 423). No objection to this testimony occurred. We agree with the court's ruling as to admissibility.

{¶89} The objection at Tr. 484 is as to the statement made to Collett Smith that Sean and Appellant were at Kinser's apartment. This objection is without merit as such facts been presented to the jury.

{¶90} The objection on Tr. 488 relates to which persons wanted to return to Kinser's apartment. It does not involved objectionable hearsay but a state of mind.

{¶91} The reference to hearsay on Tr. 507 is as to whether anything the witness said caused concern to Shannon. It does not ask as to the content of statements but as to whether he observed an emotional response and is not objectionable.

{¶92} The objection at Tr. 509 was as to the anticipated statement as to the stabbing of the victim. This clearly would meet the excited utterance exception and is not objectionable.

{¶93} The Tr. 585 objection is not as to a statement but as to the results of the police investigation resulting in locating the Appellant's knife and is not hearsay. Of course, the Appellant stipulated that Mamo's blood was on it. (Tr. 607).

{¶94} While there are many disagreements among attorneys and courts as to what constitutes hearsay and the application of the many exceptions, the ultimate determination of admissibility is within the sound discretion of the court and the determination of prejudicial effect, if any.

{¶95} We find that, under the evidence, presented not only were the objections not well taken, but were not prejudicial.

{¶96} The Eighth Assignment of Error is rejected.

{¶97} This cause is affirmed.

Wise, J., concurs.

Hoffman, P.J., concurs separately.

Hoffman, P.J., concurring.

{¶98} I concur in the majority's analysis and disposition of appellant's first assignment of error. I would add I find the trial court's reasoning the evidence showed both McGath and appellant went to the victim's apartment with the idea of confronting him particularly persuasive in support of a charge on complicity, despite the fact the State never wavered in its theory appellant was the principal offender.

{¶99} Furthermore, as in *State v. Perryman* (1976), 49 Ohio St.2d 14, it was appellant who first presented direct evidence suggesting some other person caused the death of Mamo.[1] Since appellant presented evidence from which reasonable minds could find he was not the principal offender, the court's instruction on complicity was proper.

{¶100} As to appellant's second assignment of error, I concur in the majority's disposition, but add the testimony appellant asserts he was prevented from presenting through Det. Delp was previously admitted through his cross-examination of Josh Mitchell. See pages 318-319 of the transcript.

{¶101} As to appellant's third assignment of error, given the cross-examination testimony of Josh Mitchell, I find it was error not to instruct the jury McGath's threat could be considered substantive evidence as to McGath's guilt. It matters not whether the threat was developed thereafter through cross-examination of McGath himself. However, I find the failure to so instruct was harmless error given the fact the jury found appellant was not the principal offender.

{¶102} As to appellant's eighth assignment of error, I concur in the majority's disposition without expressing my agreement or disagreement with its analysis. I find

[1] See the direct examination of appellant's expert, Dr. Clark, concerning the type of knife used to inflict the fatal wound.

appellant's generalized assertion of error in admitting numerous hearsay statements does not satisfy App.R. 16(A)(7).

{¶103} As to all other assignments of error not specifically previously addressed, I concur in the majority's analysis and disposition.

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JUDGE WILLIAM B. HOFFMAN

[Cite as *State v. Lovsey*, 2004-Ohio-2112.]

IN THE COURT OF APPEALS FAIRFIELD COUNTY, OHIO

FIFTH APPELLATE DISTRICT

STATE OF OHIO,	:	
Plaintiff-Appellee	:	
-vs-	:	JUDGMENT ENTRY
ANTHONY L. LOVSEY,	:	
Defendant-Appellant	:	CASE NO. 03-CA-1

For the reasons stated in our accompanying Memorandum-Opinion on file, the judgment of the Fairfield County Court of Common Pleas is affirmed. Costs assessed to Appellant.

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JUDGES